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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,488	03/31/2004	Kanichi Sato	04036 /LH	1222
1933	7590	12/23/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			PAPE, JOSEPH	
220 Fifth Avenue			ART UNIT	PAPER NUMBER
16TH Floor			3612	
NEW YORK, NY 10001-7708			DATE MAILED: 12/23/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/816,488	SATO, KANICHI	
	Examiner Joseph D. Pape	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-33 is/are pending in the application.
 - 4a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 24,25 and 29-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 26-28 (which correspond to cancelled claims 7-9) are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/14/05.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 24, 29, and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Persson et al.

Persson et al. disclose the claimed invention including a painted outer layer 1, foam layer 3, reinforcing plate 4, and sound absorbing layer 5. The inner surface of the sound absorbing material is covered by a sheet of material 6. Note that the roof member

of Persson et al. is for a automobile which inherently includes a "cab" as broadly as recited which can be used for work (work machine).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Persson et al.

Persson et al. disclose the claimed invention including the reinforcing plate 4 being made of a metal layer (see column 6, line 32).

Persson et al. do not disclose that the metal reinforcement is iron.

Section 2144.07 of the MPEP sets forth that the selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness. See *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) (selection of a known plastic to make a container of a type made of plastics prior to the invention was held to be obvious).

It would have been obvious to one of obvious skill in the art at the time the invention was made to construct the metal reinforcement of Persson et al. from iron

because such selection of a known metal to construct a prior art device made of metal is *prima facie* obvious in view of *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Further, it would also have been obvious to construct the iron plate to have a thickness in the range of 3.2 to 4.5 mm based on the intended use absent a showing of the criticality thereof.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Persson et al.

Persson et al. disclose the claimed invention including the plastic material being PVC (see column 6, line 20).

Persson et al. do not disclose that the plastic material is polyurethane resin.

Section 2144.07 of the MPEP sets forth that the selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness. See *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) (selection of a known plastic to make a container of a type made of plastics prior to the invention was held to be obvious).

It would have been obvious to one of obvious skill in the art at the time the invention was made to construct the foam layer of Persson et al. with a plastic which is polyurethane resin because such selection of a known foamable plastic to construct a prior art device made of a foamable plastic is *prima facie* obvious in view of *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

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7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Persson et al. in view of Kurihara.

Persson et al. disclose the claimed invention except for embedded fastening pieces for joining the roof member to the vehicle.

Kurihara disclose a plastic laminated roof structure with fastening pieces 16 embedded in a joint area for joining with a vehicle frame by fastening members.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the roof member of Persson et al. with fastening pieces as taught by Kurihara for providing a means for connecting the roof member to the vehicle frame structure.

Response to Arguments

8. Applicant's arguments with respect to claims 24, 25, and 29-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph D. Pape 10/19/05

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Primary Examiner
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Jdp

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